

Townhouse Associates, L.L.C.

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RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

APR 2 1 05 PM '96

March 29, 1996

Federal Election Commission
Office of General Counsel
999 E Street, N.W.
Washington, D.C. 20463

QOR 1996-13

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
APR 1 3 06 PM '96

RE: Request for Advisory Opinion

On behalf of Townhouse Associates, L.L.C. (hereinafter TA), I respectfully request an Advisory Opinion regarding the application of the Federal Election Campaign Act of 1971, as amended, to the Federal election contributions which TA may wish to make.

TA is a limited liability company (hereinafter LLC) organized under the District of Columbia Limited Liability Company Act of 1994, DC Code § 29-1301 *et seq.* The law relevant to LLC's in the District of Columbia is the same in all respects as the law in Virginia as discussed in AO 1995-11.

TA is organized solely to hold the investments of its Members, and to purchase property in the District of Columbia (TA's Articles of Organization are attached). Under the law in the District of Columbia TA, as a single purpose LLC, will avoid capital gains tax upon the sale of such property. TA has twelve members, all of whom are natural persons who are citizens of the United States. All twelve members of TA are also members of the Firm; however, the Firm has additional members who are not members of TA.

TA recently acquired property in the District of Columbia in the form of a townhouse located in the Capitol Hill area. The townhouse has three floors - a basement, a first floor consisting of the living room, dining room, kitchen, and patio, and a second floor consisting of three bedrooms. Eighty percent of the basement has been rented to a third party individual who pays TA monthly rent. The Firm is leasing a bedroom on the second floor for use as an office (approximately 25% of the second floor), 20% of the space in the basement for storage, and access to the common areas on the first floor. TA's lease with the Firm provides that TA may rent on an hourly, daily or weekly basis part or all of the first floor subject to (1) TA's notifying the Firm, and (2) the availability of the space.

Other than the uses described above, TA intends to rent the remaining two bedrooms and living space as overnight accommodations. TA also will rent the kitchen, patio, dining room and living area to event caterers. Business, charitable, service organizations will regularly utilize the space for events due to the property's close proximity to the Capitol, Supreme Court and Mall. TA holds no other assets, and has no intention of acquiring any other properties in the District of

Columbia or elsewhere. The approximate fair market value of the townhouse is \$450,000.

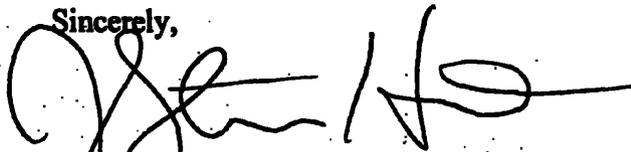
Subject to the terms of its lease with the Firm, and its availability, TA may wish to offer space in the townhouse to campaign committees for fundraisers from time to time. In the case of these political events, TA intends to either (a) charge the campaign committee fair market value for use of the space, or (b) donate the space and report an in-kind contribution to the campaign committee.

Two questions arise:

- (1) Under AO 1995-11 would TA, standing alone, also fall within the definition "any other organization or group of persons," under 2 U.S.C. § 431(11), such that it would be subject to the same contribution limits as apply to any person who makes contributions under the Act?
- (2) Whether the circumstances surrounding the leasing of space in the townhouse to the Firm affect the status of TA, and its ability to make political contributions, in the eyes of the Commission?

If you require any additional information to enable you to prepare an Advisory Opinion, please do not hesitate to contact me. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Steven Hart". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

J. Steven Hart

Townhouse Associates, L.L.C.

Townhouse Associates, L.L.C.
Operating Agreement

This Operating Agreement (this "Agreement") is entered into as of the 2nd day of January, 1996, by and among its members, whose names and addresses are set forth on Exhibit A attached hereto, together, being all of the members of Townhouse Associates, L.L.C., a District of Columbia limited liability company (the "Company").

WHEREAS, the parties have agreed to organize and operate a limited liability company in accordance with the terms of, and subject to the conditions set forth in, this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

Article I
Defined Terms

The following capitalized terms shall have the meanings specified in this *Article I*. Other terms are defined in the text of this Agreement; and, throughout this Agreement, those terms shall have the meanings respectively ascribed to them.

"*Act*" means the District of Columbia Limited Liability Company Act of 1994, as amended from time to time.

"*Adjusted Capital Account Deficit*" means, with respect to any Interest Holder, the deficit balance, if any, in the Interest Holder's Capital Account as of the end of the relevant taxable year, after giving effect to the following adjustment:

(i) the deficit shall be decreased by the amounts which the Interest Holder is obligated to restore pursuant to *Section 4.4(b)* or is deemed obligated to restore pursuant to Regulation Section 1.704-1(b)(2)(ii)(C); and

(ii) the deficit shall be increased by the items described in Regulation Sections 1.704-1(b)(2)(ii)(d)(4), (5), and (6).

"*Agreement*" means this Operating Agreement, as amended from time to time.

"*Articles of Organization*" means the Articles of Organization of the Company which have been filed with the Mayor, as amended from time to time.

"*Capital Account*" means the account maintained by the Company for each Interest Holder in accordance with the following provisions:

(i) an Interest Holder's Capital Account shall be credited with the Interest Holder's Capital Contributions, the amount of any Company liabilities assumed by the Interest Holder (or which are secured by Company property distributed to the Interest Holder), the Interest Holder's distributive share of Profit and any item in the nature of income or gain specially allocated to such Interest Holder pursuant to the provisions of *Article IV* (other than *Section 4.4(c)*); and

(ii) an Interest Holder's Capital Account shall be debited with the amount of money and the fair market value of any Company property distributed to the Interest Holder, the amount of any liabilities of the Interest Holder assumed by the Company (or which are secured by property contributed by the Interest Holder to the Company), the Interest Holder's distributive share of Loss and any item in the nature of expenses or losses specially allocated to the Interest Holder pursuant to the provisions of *Article IV* (other than *Section 4.3(c)*).

If any Interest is transferred pursuant to the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent the Capital Account is attributable to the transferred Interest. If the book value of Company property is adjusted pursuant to *Section 4.3(c)*, the Capital Account of each Interest Holder shall be adjusted to reflect the aggregate adjustment in the same manner as if the Company had recognized gain or loss equal to the amount of such aggregate adjustment. It is intended that the Capital Accounts of all Interest Holders shall be maintained in compliance with the provisions of Regulation Section 1.704-1(b), and all provisions of this Agreement relating to the maintenance of Capital Accounts shall be interpreted and applied in a manner consistent with that Regulation.

"Capital Contribution" means the total amount of cash and the fair market value of any other assets contributed (or deemed contributed under Regulation Section 1.704-1(b)(2)(iv)(d)) to the Company by a Member, net of liabilities assumed or to which the assets are subject.

"Cash Flow" means all cash funds derived from operations of the Company (including interest received on reserves), without reduction for any noncash charges, but less cash funds used to pay current operating expenses and to pay or establish reasonable reserves for future expenses, debt payments, capital improvements, and replacements as determined by the Members. Cash Flow shall be increased by the reduction of any reserve previously established.

"Code" means the Internal Revenue Code of 1986, as amended, or any corresponding provision of any succeeding law.

"Company" means the limited liability company organized in accordance with this Agreement.

"District" means the District of Columbia.

"Financial Rights" means a Person's rights to share in Profits and Losses of, and distributions from, the Company.

"Governance Rights" means all of a Person's rights as a Member of the Company other than Financial Rights and the right to assign Financial Rights.

"Interest" means a Person's share of the Profits and Losses of, and the right to receive distributions from, the Company.

"Interest Holder" means any Person who holds an Interest, whether as a Member or as an unadmitted assignee of a Member.

"Mayor" means the Mayor of the District or the agent designated by him or her to perform any function vested in the Mayor by the Act.

"Member" means each Person who is entering into this Agreement and any Person who subsequently is admitted as a Member of the Company.

"Membership Rights" means all of the rights of a Member in the Company, namely, a Member's Financial Rights and Governance Rights, including a Member's: (i) Interest; (ii) right to inspect the Company's books and records; and (iii) right to participate in the management of and vote on matters coming before the Company.

"Minimum Gain" has the meaning set forth in Regulation Section 1.704-2(d). Minimum Gain shall be computed separately for each Interest Holder in a manner consistent with the Regulations under Code Section 704(b).

"Negative Capital Account" means a Capital Account with a balance of less than zero.

"Percentage" means, as to a Member, the percentage set forth after the Member's name on Exhibit A, as amended from time to time, and as to an Interest Holder who is not a Member, the Percentage of the Member whose Interest has been acquired by such Interest Holder, to the extent the Interest Holder has succeeded to that Member's Interest.

"Person" means a natural person (age 18 or older), partnership (whether general or limited and whether domestic or foreign), limited liability company, trust, estate, association, corporation, custodian, nominee or any other individual or entity in its own or any representative capacity.

"Positive Capital Account" means a Capital Account with a balance greater than zero.

"Profit" and **"Loss"** means, for each taxable year of the Company (or other period for which Profit or Loss must be computed) the Company's taxable income or loss determined in accordance with Code Section 703(a), with the following adjustments:

(i) all items of income, gain, loss, deduction or credit required to be stated separately pursuant to Code Section 703(a)(1) shall be included in computing taxable income or loss;

(ii) any tax-exempt income of the Company, not otherwise taken into account in computing Profit or Loss, shall be included in computing taxable income or loss;

(iii) any expenditures of the Company described in Code Section 705(a)(2)(B) (or treated as such pursuant to Regulation Section 1.704-1(b)(2)(iv)(i) and not otherwise taken into account in computing Profit or Loss, shall be subtracted from taxable income or loss;

(iv) gain or loss resulting from any taxable disposition of company property shall be computed by reference to the adjusted book value of the property disposed of, notwithstanding the fact that the adjusted book value differs from the adjusted basis of the property for federal tax purposes;

(v) in lieu of the depreciation, amortization or cost recovery deductions allowable in computing taxable income or loss, there shall be taken into account the depreciation computed based upon the adjusted book value of the asset; and

(vi) notwithstanding any other provisions of this definition, any items which are specially allocated pursuant to *Section 4.3* hereof shall not be taken into account in computing Profit or Loss.

"Regulation" means the income tax regulations, including any temporary regulations, from time to time promulgated under the Code.

"Transfer" means, when used as a noun, any voluntary sale, hypothecation, pledge, assignment, attachment or other transfer, and, when used as a verb, means voluntarily to sell, hypothecate, pledge, assign or otherwise transfer.

Article II

Formation and Name; Office; Purpose; Term

2.1. Organization. The parties hereby organize a limited liability company pursuant to the Act and the provisions of this Agreement and, for that purpose, have caused Articles of Organization to be prepared, executed and filed with the Mayor on December 18, 1995, to become effective on January 2, 1996.

2.2. Name of the Company. The name of the Company shall be "Townhouse Associates, L.L.C."

2.3. Purpose. The Company is organized solely to hold the contributions of the Members, to loan said funds from time to time to the law firm of Williams & Jensen, P.C., (the "Firm") or to pledge said funds on behalf of the Firm, and to purchase, acquire, buy, sell, own, trade in, hold, develop, lease, manage, subdivide and otherwise deal in and with real property in the District of Columbia, and to do any and all things necessary, convenient or incidental to the above purpose.

2.4. Term. The term of the Company began on January 2, 1996 and shall continue until December 31, 2025 unless its existence is sooner terminated pursuant to *Article VII* of this Agreement.

2.5. Powers. The Company shall have and may exercise all powers necessary or convenient to effect any or all of the purposes for which the Company is formed, including the power to acquire an estate or interest in property in its name.

2.6. Registered Office and Registered Agent. The registered office of the Company in the District shall be at 1155-21st Street, N.W., Suite 300, Washington, D.C. 20036 and the registered agent of the Company in the District shall be Winfield P. Crigler, until otherwise changed in the manner provided by law.

2.7. Members. The name, present mailing address, taxpayer identification number and Percentage of each Member are set forth on *Exhibit A*.

Article III Members; Capital; Capital Accounts

3.1. Initial Capital Contributions. Upon the execution of this Agreement, the Members shall contribute to the Company cash and property in the amounts respectively set forth on *Exhibit A*.

3.2. No Additional Capital Contribution Required. No Member shall be required to contribute any additional capital to the Company, and no Member shall have any personal liability for any obligation of the Company.

3.3. No Interest on Capital Contributions. Interest Holders shall not be paid interest on their Capital Contributions.

3.4. Return of Capital Contributions. Except as otherwise provided in this Agreement, no Interest Holder shall have the right to receive any return of any Capital Contribution.

3.5. Form of Distribution. If an Interest Holder is entitled to receive a distribution, the Company may distribute cash, notes, property or a combination thereof to the Interest Holder.

3.6. Capital Accounts. A separate Capital Account shall be maintained for each Interest Holder.

3.7. Loans to the Company. Any Member may, at any time, make or cause a loan to be made to the Company in any amount and on those terms upon which the Company and the Member agree.

Article IV Profit, Loss and Distributions

4.1. Cash Flow. Cash Flow for each taxable year of the Company shall be distributed to the Interest Holders in proportion to their Percentages no later than ninety (90) days after the end of the taxable year.

4.2. Allocation of Profit or Loss. After giving effect to the special allocations set forth in Section 4.3., for any taxable year of the Company, Profit or Loss shall be allocated to the Interest Holders in proportion to their Percentages.

4.3. Regulatory Allocations.

(a) Qualified Income Offset. No Interest Holder shall be allocated Losses or deductions if the allocation causes an Interest Holder to have an Adjusted Capital Account Deficit. If an Interest Holder receives (i) an allocation of Loss or deduction (or item thereof) or (ii) any distribution which causes the Interest Holder to have an Adjusted Capital Account Deficit at the end of any taxable year, then all items of income and gain of the Company (consisting of a pro rata portion of each item of Company income, including gross income and gain) for that taxable year shall be allocated to that Interest Holder before any other allocation is made of Company items for that taxable year, in the amount and in the proportions required to eliminate the excess as quickly as possible. This Subsection 4.3(a) is intended to comply with, and shall be interpreted consistently with, the "qualified income offset" provisions of the Regulations promulgated under Code Section 704(b).

(b) Minimum Gain Chargeback. Except as set forth in Regulation Section 1.704-2(f)(2), (3) and (4), if during any taxable year, there is a net decrease in Minimum Gain, each Interest Holder, prior to any other allocation pursuant to this Section IV, shall be specially allocated items of gross income and gain for such taxable year (and, if necessary, subsequent taxable years) in an amount equal to that Interest Holder's share of the net decrease of Minimum

Gain, computed in accordance with Regulation Section 1.704-2(g). Allocations of gross income and gain pursuant to this *Subsection 4.3(b)* shall be made first from gain recognized from the disposition of Company assets subject to nonrecourse liabilities (within the meaning of the Regulations promulgated under Code Section 752), to the extent of the Minimum Gain attributable to those assets, and thereafter, from a pro rata portion of the Company's other items of income and gain for the taxable year. It is the intent of the parties hereto that any allocation pursuant to this *Subsection 4.3(b)* shall constitute a "minimum gain chargeback" under Regulation Section 1.704-2(f).

(c) *Contributed Property and Book-Ups.* In accordance with Code Section 704(c) and the Regulations thereunder, as well as Regulation Section 1.704-1(b)(2)(iv)(d)(3), income, gain, loss and deduction with respect to any property contributed (or deemed contributed) to the Company shall, solely for tax purposes, be allocated among the Interest Holders so as to take account of any variation between the adjusted basis of the property to the Company for federal tax purposes and its fair market value at the date of contribution (or deemed contribution). If the adjusted book value of any Company asset is adjusted as provided herein, subsequent allocations of income, gain, loss and deduction with respect to the asset shall take account of any variation between the adjusted basis of the asset for federal tax purposes and its adjusted book value in the manner required under Code Section 704(c) and the Regulations thereunder.

4.4. *Liquidation and Dissolution.*

(a) If the Company is liquidated, the assets of the Company shall be distributed to the Interest Holders in accordance with the balances in their respective Capital Accounts, after taking into account the allocations of Profit or Loss pursuant to *Section 4.2*, if any, and distributions, if any, of cash or property pursuant to *Section 4.1*.

(b) An Interest Holder shall be obligated to restore a Negative Capital Account to zero.

4.5. *General.*

(a) Except as otherwise provided in this Agreement, the timing and amount of all distributions shall be determined by the Members.

(b) If any assets of the Company are distributed in kind to the Interest Holders, those assets shall be valued on the basis of their fair market value, and any Interest Holder entitled to any interest in those assets shall receive that interest as a tenant-in-common with all other Interest Holders so entitled. Unless the Members otherwise agree, the fair market value of the assets shall be determined by an independent appraiser who shall be selected by the Members. The Profit or Loss for each unsold asset shall be determined as if the asset had been sold at its fair market value, and the Profit or Loss shall be allocated as provided in *Section 4.2*

and shall be properly credited or charged to the Capital Accounts of the Interest Holders prior to the distribution of the assets in liquidation pursuant to *Section 4.4*.

(c) All Profit and Loss shall be allocated, and all distributions shall be made, to the Persons shown on the records of the Company to have been Interest Holders as of the last day of the taxable year for which the allocation or distribution is to be made. Notwithstanding the foregoing, unless the Company's taxable year is separated into segments, if there is a transfer during the taxable year, the Profit or Loss shall be allocated between the original Interest Holder and the successor on the basis of the number of days each was an Interest Holder during the taxable year; provided, however, the Company's taxable year shall be segregated into two or more segments in order to account for Profit, Loss or proceeds attributable to any extraordinary nonrecurring items of the Company.

(d) The Members are hereby authorized, upon the advice of the Company's tax counsel, to amend this *Article IV* to comply with the Code and the Regulations promulgated under Code Section 704(b); provided, however, that no amendment shall materially affect distributions to an Interest Holder without the Interest Holder's prior written consent.

Article V

Management: Rights, Powers and Duties

5.1. Management.

(a) The Company shall be managed by the Members. Except as otherwise provided in this Agreement, each Member shall have the right to act for and bind the Company in the ordinary course of its business.

(b) The Members, by the vote required under *Subsection 5.2(b)*, may from time to time appoint or remove a manager (the "Manager") to carry on the day-to-day affairs of the Company. The Manager need not be a Member. The Manager's authority shall be ministerial only, and the Manager shall not make any decisions on behalf of the Company out of the ordinary course of its business.

5.2. Meetings of and Voting by Members.

(a) A meeting of the Members may be called at any time by at least one quarter of the Members. Meetings of Members shall be held at the Company's principal place of business or at any other place in the District designated by the Members calling the meeting. Not less than five (5) nor more than thirty (30) days before each meeting, the Members calling the meeting shall give written notice of the meeting to each Member entitled to vote at the meeting.

The notice shall state the time, place and purpose of the meeting. Notwithstanding the foregoing provisions, each Member who is entitled to notice waives notice if before or after the meeting the Member signs a waiver of the notice which is filed with the records of Members' meetings, or is present at the meeting in person or by proxy. Unless this Agreement, provides otherwise, at a meeting of Members, the presence in person or by proxy of Members with voting rights holding at least a majority of the Percentages then held by members with voting rights shall constitute a quorum. A Member may vote either in person or by written proxy signed by the Member or by the Member's duly authorized attorney in fact.

(b) Except as otherwise provided in this Agreement, the affirmative vote of Members with voting rights holding a least a majority of the Percentages then held by Members with voting rights shall be required to approve any matter coming before the Members.

(c) In lieu of holding a meeting, the Members may vote or otherwise take action by a written instrument indicating the consent of Members with voting rights holding at least a majority of the Percentages then held by the Members with voting rights. Copies of this written instrument must be sent to all of the Members who have not executed this instrument.

(d) Except as otherwise provided in this Agreement, wherever the Act requires unanimous consent to approve or take any action, that consent shall be given in writing and in all cases shall mean the consent of Members holding at least a majority of the Percentages then held by Members with voting rights, rather than meaning the consent of all Members.

5.3. Personal Services. No Member shall be required to perform services for the company solely by virtue of being a Member. Unless approved by the Members, no Member shall be entitled to compensation for services performed for the company. Upon substantiation of the amount and purpose thereof, however, the Members shall be entitled to reimbursement for expenses reasonably incurred in connection with the activities of the Company.

5.4. Duties of Parties.

(a) Each Member shall devote such time to the business and affairs of the Company as is necessary to carry out the Member's duties set forth in this Agreement.

(b) Except as otherwise expressly provided in *Subsection (c)*, nothing in this Agreement shall be deemed to restrict in any way the rights of any Member to conduct any other business or activity whatsoever.

(c) Each Member understands and acknowledges that the conduct of the Company's business may involve business dealings and undertakings with Members. In any of those cases, those dealings and undertakings shall be at arm's length and on commercially reasonable terms.

5.5. Liability and Indemnification.

(a) No Member shall have any personal obligation for any debts, obligations or liabilities of the Company, whether such debts, obligations or liabilities arise in contract, tort or otherwise, solely by reason of being a Member manager, employee or agent of the Company. A Member shall not be liable, responsible or accountable, in damages or otherwise, in any action brought by or in the right of the Company or brought by or in the right of the Members, except if the Member engaged in wilful misconduct.

(b) The Company shall indemnify each Member to the fullest extent permitted by the Act for any act performed by the Member with respect to Company matters, except in the case of action or failure to act by a Member which constitutes wilful misconduct or recklessness.

Article VI

Transfer of Interests and Withdrawals of Members

6.1. Transfers.

(a) Except as provided in this *Article VI*, no Member may Transfer all, or any portion of, or any interest or rights in, the Membership Rights owned by the Member, and no Interest Holder may Transfer all, or any portion of, or any interest or rights in, any Interest. Each Member hereby acknowledges the reasonableness of this prohibition in view of the purposes of the Company and the relationship of the Members. The Transfer of any Membership Rights or Interests in violation of the prohibition contained in this *Section 6.1* shall be deemed invalid, null and void, and of no force or effect. Any Person to whom Membership Rights are attempted to be transferred in violation of this *Section 6.1* shall not be entitled to vote on matters coming before the Members, participate in the management of the Company, act as an agent of the Company, receive distributions from the Company or have any other rights in or with respect to the Membership Rights.

(b) Notwithstanding the foregoing provisions of *Subsection (a)*, upon the death, incompetency, or bankruptcy of a Member, the estate or immediate legal successor or representative of such Member or his estate, as determined under applicable law, may succeed to his Interest (and thereupon become an Interest Holder, who as an unadmitted assignee of a Member is otherwise subject to the terms, conditions and restrictions of this Agreement). Without limitation of the preceding sentence, (i) the restrictions of this *Section 6.1* shall apply to any Interest Holder pursuant to a Transfer by reason of the death incompetency or bankruptcy of a Member to the same extent that, under the circumstances, such restrictions would have applied to the deceased, incompetent, or bankrupt Member, and (ii) such Interest Holder shall, as a condition to holding such Interest, within ten (10) days after notice of demand from the

Company, execute a written agreement satisfactory to the Company acknowledging that such Interest Holder shall be bound by, and take the applicable Interest subject to, the obligations, conditions and restrictions of this Agreement as same applies to Members and their respective Interests.

(c) Notwithstanding anything contained herein to the contrary, a transferee under Subsection (b) above of all or any portion of or any interest or rights in any Membership Rights or Interest shall not be entitled to become a Member or exercise any rights of a Member. The transferee shall be entitled to receive, to the extent transferred, only the distributions to which the transferor would be entitled; and the transferee shall not be admitted as a Member unless the Members unanimously consent.

6.2. *Resignation.* No Member shall have the right or power to resign from the Company, unless the Member is also resigning his or her Membership in the Firm of Williams & Jensen, P.C.

Article VII Dissolution, Liquidation and Termination of the Company

7.1. *Events of Dissolution.* The Company shall be dissolved upon the happening of any of the following events:

- (a) when the period fixed for its duration in Section 2.4. has expired;
- (b) upon the unanimous written agreement of the Members; or
- (c) upon the death, retirement, resignation, expulsion, or bankruptcy of a Member or the occurrence of any other event that terminates the continued membership of a Member in the Company, unless there remain at least two Members or at least one Member and a new Member is admitted, and the remaining Members, within ninety (90) days after the event or occurrence, unanimously elect to continue the legal existence and business of the Company pursuant to the terms of this Agreement.

7.2. *Procedure for Winding Up and Distribution.* If the Company is dissolved, the remaining Members shall wind up its affairs. On winding up of the Company, the assets of the Company shall be distributed, first, to creditors of the Company, including Interest Holders who are creditors, in satisfaction of all liabilities of the Company, other than liabilities for any interim distributions or distributions upon resignation, second, to Members and former Members in satisfaction of liabilities for interim distributions or distributions upon resignation, and third, to the Interest Holders in accordance with Section 4.4 of this Agreement.

Article VIII
Books, Records, Accounting and Tax Elections

8.1. Bank Accounts. All funds of the Company shall be deposited in a bank account or accounts opened in the Company's name. The Members shall determine the institution or institutions at which the accounts will be opened and maintained, the types of accounts and the Persons who will have authority with respect to the accounts and the funds therein.

8.2. Books and Records. The Members shall keep or cause to be kept complete and accurate books and records of the Company and supporting documentation of the transactions with respect to the conduct of the Company's business, as required by Section 29-1322 (a) of the Act. These books and records shall be maintained in accordance with sound accounting principles and practices and shall be available at the company's principal office for inspection and copying by any Member at any and all reasonable times during normal business hours at such Member's expense.

8.3. Annual Accounting Period. The annual accounting period of the Company shall be its taxable year. The Company's taxable year shall be selected by the Members, subject to the requirements and limitations of the Code.

8.4. Reports. Within ninety (90) days after the end of each taxable year of the company, the Members shall cause to be sent to each Person who was a Member at any time during the taxable year then ended a complete accounting of the affairs of the Company for the taxable year then ended. In addition, within ninety (90) days after the end of each taxable year of the Company, the Members shall cause to be sent to each Person who was an Interest Holder at any time during the taxable year then ended, that tax information concerning the Company which is necessary for preparing the Interest Holder's income tax returns for that year. At the request of any Member and at the Member's expense, the Members shall cause an audit of the Company's books and records to be prepared by independent accountants for the period requested by the Member. The Members shall cause an annual report complying with the requirements of Section 29-1364 of the Act to be filed with the Mayor before June 16th of each year.

Article IX
General Provisions

9.1. Assurances. Each Member shall execute all certificates and other documents and shall do all such filing, recording, publishing and other acts as the Members deem appropriate to comply with the requirements of law for the formation and operation of the Company and to comply with any laws, rules and regulations relating to the acquisition, operation or holding of the property of the Company.

9.2. Notifications. Any notice, demand, consent, election, offer, approval, request or other communication (collectively, a "Notice") required or permitted under this Agreement must be in writing and either delivered personally or sent by certified or registered mail, postage prepaid, return receipt requested. A Notice must be addressed to an Interest Holder at the Interest Holder's last know address on the records of the Company. A Notice to the Company must be addressed to the Company's principal office. A Notice delivered personally will be deemed given only when acknowledged in writing by the person to whom it is delivered. A Notice that is sent by mail will be deemed given three (3) business days after it is mailed. Any party may designate, by Notice to all of the others, substitute addresses or addressees for Notices; and, thereafter, Notices are to be directed to those substitute addresses or addressees.

9.3. Specific Performance. The parties recognize that irreparable injury will result from a breach of any provision of this Agreement and that money damages will be inadequate to fully remedy the injury. Accordingly, in the event of a breach or threatened breach of one or more of the provisions of this Agreement, any party who may be injured (in addition to any other remedies which may be available to that party) shall be entitled to one or more preliminary or permanent orders (i) restraining and enjoining any act which would constitute a breach or (ii) compelling the performance of any obligation which, if not performed, would constitute a breach.

9.4. Complete Agreement. This Agreement constitutes the complete and exclusive statement of the agreement among the Members. It supersedes all prior written and oral statements, including any prior representation, statement, condition, or warranty. Except as expressly provided otherwise herein, this Agreement may not be amended without the written consent of those Members with voting rights holding at least a majority of the Interests in Profits of the Company.

9.5. Applicable Law. All questions concerning the construction, validity and interpretation of this Agreement and the performance of the obligations imposed by this Agreement shall be governed by the internal law, not the law of conflicts, of the District.

9.6. Section Titles. The headings herein are inserted as a matter of convenience only, and do not define, limit or describe the scope of this Agreement or the intent of the provisions hereof.

9.7. Binding Provisions. This Agreement is binding upon, and inures to the benefit of, the parties hereto and their respective heirs, executors, administrators, personal and legal representatives, successors and permitted assigns.

9.8. Jurisdiction and Venue. Any suit involving any dispute or matter arising under this Agreement may only be brought in the United States Court of Appeals for the District of Columbia or any District court having jurisdiction over the subject matter of the dispute or matter. All Members hereby consent to the exercise of personal jurisdiction by any such court with respect to any such proceeding.

9.9. *Terms.* Common nouns and pronouns shall be deemed to refer to the masculine, feminine, neuter, singular and plural, as the identity of the Person may in the context require.

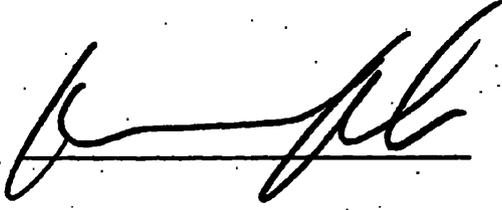
9.10. *Separability of Provisions.* Each provision of this Agreement shall be considered separable; and if, for any reason, any provision or provisions herein are determined to be invalid and contrary to any existing or future law, such invalidity shall not impair the operation of or affect those portions of this Agreement which are valid.

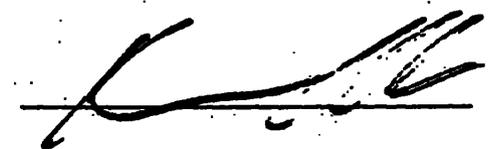
9.11. *Counterparts.* This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, and all of which, when taken together, constitute one and the same document. The signature of any party to any counterpart shall be deemed a signature to, and may be appended to, any other counterpart.

9.12. *Estoppel Certificate.* Each Member shall, within ten (10) days after written request by any Member, deliver to the requesting Person a certificate stating, to the Member's knowledge, that (a) this Agreement is in full force and effect; (b) this Agreement has not been modified except by any instrument or instruments identified in the certificate; and (c) there is no default hereunder by the requesting Person, or if there is a default, the nature and extend thereof.

IN WITNESS WHEREOF, the parties have executed or caused this Agreement to be executed, under seal, as of the date set forth hereinabove.

WITNESS:



MEMBERS:


George D. Baker (SEAL)

Ann S. Costello

Winfield P. Crigler

Butler C. Derrick (SEAL)

WITNESS:

[Handwritten Signature]

MEMBERS:

[Handwritten Signature] (SEAL)
David E. Franasiak

[Handwritten Signature] (SEAL)
Robert E. Glennon

[Handwritten Signature] (SEAL)
J. Steven Hart

[Handwritten Signature] (SEAL)
Robert J. Martinez

[Handwritten Signature] (SEAL)
John J. McMackin, Jr.

[Handwritten Signature] (SEAL)
George G. Olsch

[Handwritten Signature] (SEAL)
David A. Starr

[Handwritten Signature] (SEAL)
Mary Lynne Whalen